

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT
State/Territory: North Dakota

ELIGIBILITY CONDITIONS AND REQUIREMENTS

**Process for the Investigation of Allegations of Resident Neglect
and Abuse and Misappropriation of Resident Property**

The State has in effect the following process for the receipt and timely review and investigation of allegations of neglect and abuse and misappropriation of resident property by a nurse aide or a resident in a nursing facility or by another individual used by the facility in providing services to such a resident.

NURSE AIDE COMPLAINT REVIEW PROCESS

RECEIPT OF COMPLAINT/ADMINISTRATIVE PROCESS

1. Telephone call from complainant. Complaint information may be taken by surveyors or management staff. In some cases this may occur while onsite at the facility. Anyone can file a complaint of abuse, neglect, or theft of resident funds with the department.
2. Request complaint in writing if possible, ask for specific details, signed statements by eye witnesses, prior offenses/personnel records, statement of what the facility has done about the case up to this point. Obtain name and address of nurse aide. Forward complaint to Manager of Standards Development.
3. The Manager of Standards Development sends a form letter to nurse aide against whom the allegation has been made. Letter describes Department's responsibility, briefly describes allegations, tells nurse aide she may respond to the charges within fifteen days and gives her address of our office. Letter to be sent certified mail.
4. Tracking and management of the process are the responsibility of the Manager of Standards Development. If response from nurse aide is not received within fifteen days and information received from facility etc. is sufficient to validate, send letter to nurse aide indicating validation and proposed language for registry. Letter informs nurse aide of opportunity for hearing and indicates she must contact office immediately if she is requesting a hearing. Tells the nurse aide they have thirty days to respond to inaccuracies in proposed information for registry. Letter to be sent certified mail.
5. If no response is received from nurse aide within thirty days specific to the information to be contained on the registry, proposed information is sent to registry to be included after nurse aides name. A copy of the registry letter is sent to the person who filed the complaint and the facility.

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6. If response is received from nurse aide contesting allegations, Manager of Standards Development will refer to managers of survey and certification for scheduling of on site visit. If allegations are received during an on site visit, investigate while at facility if time permits. Upon return to office proceed with steps 1, 2, 3, 4, 5, and continue with step 7 through 9 as appropriate.

7. After on site investigation, Manager of Standards Development reviews findings and recommendations from surveyor and determines if allegations will be validated. If validated, proceed with step 4 and 5 above as appropriate. If not validated, send nurse aide, complainant and administrator a letter that states allegations have not been validated and no information will be included on registry.

8. If hearing is requested proceed with formal hearing process. Manager of Standards Development will notify Attorney General's office to request hearing date. After selection of hearing date, Manager of Standards Development will send notice of hearing to nurse aide and notify Managers of Survey and Certification for scheduling of appropriate surveyors. Review file and make copies for attorney appointed by the Attorney General's office. Review file in depth with attorney. Seek additional information, subpoenas or documentation as necessary. Meet with surveyors/investigators and attorney to prepare for hearing. Surveyors from the Grand Forks office involved in the hearing process need to contact the Manager of Standards Development or her secretary and request a copy of the specific file information. Surveyors in the Bismarck office can acquire the file information from the Nurse Aide Abuse file. Any additional information such as surveyor notes which are brought to the hearing for reference can be obtained by the opposing party and the hearing officer. Participate in hearing as required.

9. Wait for recommendations of hearing officer. Review recommendations and determine if allegations will be validated or not. Send letter of determination to nurse aide and complainant. If validated proceed with step 4 and 5 above.

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ONSITE INVESTIGATION

A. Surveyors from the Bismarck office need to collect and review data from Nurse Aide Abuse file. Surveyors from the Grand Forks office are to contact the Manager of Standards Development or her secretary prior to the investigation and request the specific file information.

B. Call facility prior to onsite visit to make sure people you need to talk to are available. In the case of an allegation received while on site proceed with facility assistance to contact appropriate persons. Ask facility for assistance in obtaining names and interviews of residents involved, staff involved and family members.

C. Introduce self to facility upon entry and proceed with facility contact person to set up interviews etc. Interview person who actually filed the complaint.

D. Interview other nurse aides, licensed staff who worked with accused nurse aide, residents and family. Be sure to interview the nurse aide who is the alleged abuser. If staff or others are not available onsite, phone numbers are to be obtained for later telephone interviews. Follow same format for telephone interviews as appropriate.

E. Content of interview:

(1) Find out what is normal and customary practice for nurse aides in the facility specific to knowledge about abuse, resident rights, proper handling and transferring techniques or any other areas involved in complaint. Review facility training/workshop lists for attendance at related inservices.

(2) Interview licensed staff related to knowledge about abuse in general, responsibilities for reporting, inservices, monitoring responsibilities related to nurse aide activities etc. Then ask questions specific to the allegations.

(3) Interview residents and family members who have knowledge of this nurse aide or who have knowledge of usual care in the facility.

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(4) Considerations for questioning:

- *Consider staff training/orientation/duties**
- *Consider staff supervision/monitoring**
- *Consider usual and acceptable levels of performance as indicated by co-workers, nurses, residents, family and others if necessary.**
- *Be sure to interview staff and residents who were at facility during time span when incident(s) is alleged to have occurred if possible. Additional persons who do not have direct knowledge of incident but who have worked with or been cared for by nurse aide in question may be interviewed to collect supporting information.**
- *Review medical record and incident reports for information specific to incident as well as determinations specific to usual and customary practices or trends in the facility.**
- *Observe residents for bruises, skin tears, or other indications of inappropriate handling of residents if indicated.**
- *Observe techniques specific to incident (if applicable) such as bathing etc. to determine what is usual and common practice in the facility.**

10. After completion of the on site visit, surveyor compiles a written report. Be sure to include actual observations, quotations, dates and times and whether or not the investigator recommends validation of the allegation(s).

11. Submit the written report to the Manager of Standards Development for review.

12. After review, the Manager of Standards Development will make a determination regarding validation and will follow the appropriate process for either validation or non-validation. Continue with steps 4 through 9 as appropriate (page 1.).

13. Reports and information regarding nurse aide complaints of abuse, neglect, and theft of residents funds will be filed in the Nurse Aide Abuse file at the Division of Health

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Facilities. If inquiries to the registry request information other than the statement included on the registry, they may contact our office. No names of persons in the report, other than the accused, shall be released, unless in a court of law proceeding. No information collected during a non-validated case shall be released.

14. Once validated and included on the registry, the nurse aide information specific to abuse, neglect, or theft of resident funds shall remain on the registry permanently, unless the finding was made in error, the individual was found not guilty in a court of law, or the State is notified of the individual's death.

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